

REMARKS

Claims 15 to 22 are added, and therefore claims 8 to 22 are now pending.

It is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

With respect to paragraph one (1) of the Office Action, while a copy of each foreign reference should have been provided by the International Searching Authority, to facilitate matters, a copy of each foreign reference cited in the International Search Report (as previously disclosed) accompanies this response. In accordance with Office procedure, any translation requirement is satisfied by the International Search report summary of the reference. It is respectfully requested that these previously disclosed foreign references be considered and made of record.

With respect to paragraph two (2), the substitute specification has been corrected without prejudice as suggested. Approval and entry are respectfully requested.

With respect to paragraphs three (3) to five (5), claim 9 was rejected under 35 U.S.C. § 112 as to the enablement requirement. While the rejection may not be agreed with, to facilitate matters, claim 9 has been rewritten without prejudice to better clarify the claimed subject matter. Approval and entry are respectfully requested.

With respect to paragraph six (6), claim 9 was rejected under 35 U.S.C. § 112 as being indefinite. While the rejection may not be agreed with, to facilitate matters, claim 9 has been rewritten without prejudice to better clarify the claimed subject matter. Approval and entry are respectfully requested.

With respect to paragraph nine (9), claims 8 to 14 were rejected under 35 U.S.C. § 103(a) as unpatentable over Salecker et al (GB 2 317 660 A). With respect to paragraph nineteen (19), claims 8 and 9 were rejected under 35 U.S.C. § 103(a) as unpatentable over Balz et al (WO 99/50112).

To reject a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Also, as clearly indicated by the Supreme Court in *KSR*, it is “important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements” in the manner claimed. *See KSR Int’l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727 (2007). In this regard, the Supreme Court further noted that “rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, at 1396. Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

Still further, to reject a claim as obvious under 35 U.S.C. § 103, the prior art must disclose or suggest each claim feature and it should also provide a motivation or suggestion for combining the features in the manner contemplated by the claim. (*See Northern Telecom, Inc. v. Datapoint Corp.*, 908 F.2d 931, 934 (Fed. Cir. 1990), cert. denied, 111 S. Ct. 296 (1990); *In re Bond*, 910 F.2d 831, 834 (Fed. Cir. 1990)). Thus, the “problem confronted by the inventor must be considered in determining whether it would have been obvious to combine the references in order to solve the problem”, *Diversitech Corp. v. Century Steps, Inc.*, 850 F.2d 675, 679 (Fed. Cir. 1998).

While the rejections may not be agreed with, to facilitate matters, claim 8 has been rewritten to better clarify the claimed subject matter. Accordingly, claim 8, as presented, includes the feature of a “a checking arrangement to check, in the event of a starting command, as to whether the vehicle is stationary”.

The Office Action admits that “Salecker et al does not disclose ‘making a check as to whether the vehicle is stationary’” (paragraph 19), and further admits that “Balz et al does not distinctly disclose ‘making a check as to whether the vehicle is stationary.’” Still further, it is

respectfully submitted that a “push start” does not disclose the claimed subject matter. This is because in a push start, the vehicle brake must necessarily be inactivated when the “starting of the engine” is activated. Therefore, a “push start” does not disclose all the features of claim 8, as presented. Applicant is presently claiming one method of starting a vehicle engine that does not encompass or prevent the application of a “push start” as defined in the assertions of the Office Action.

Any “push start” method (as asserted in the Office Action) of activating a vehicle engine simply does not disclose nor suggest the claim 8 feature of a “checking arrangement to check, in the event of a starting command, as to whether the vehicle is stationary,” as provided for in the context of the presently claimed subject matter.

As to a driver using a manual transmission of a vehicle, any such operator activities are wholly irrelevant as to the above-discussed features of the presently claimed subject matter. In particular, a driver of a manual transmission vehicle does not disclose nor suggest the feature of a “checking arrangement to check, in the event of a starting command, as to whether the vehicle is stationary”, as provided for in the context of the presently claimed subject matter. For example, accidents will occur when drivers miscalculate whether the vehicle is stationary and whether braking is necessary.

Accordingly, claim 8, as presented, is allowable, as are its dependent claims 9 to 14.

New claims 15 to 22 do not add any new matter and are supported by the present application, including the specification. Claims 15 to 22 depend from claim 8, as presented, and are therefore allowable for the same reasons as claim 8, as presented.

Accordingly, claims 8 to 22 are allowable for the foregoing reasons.

CONCLUSION

It is therefore respectfully submitted that all of the presently pending claims are allowable and it is respectfully requested that the rejections (and any objections) be withdrawn. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is respectfully requested.

Respectfully submitted,

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